

S. Chandrakasan, Vs The Inspector General

S. Chandrakasan, Vs The Inspector General

SooperKanoon Citation : sooperkanoon.com/1782785

Court : Chennai

Decided On : Apr-22-2025

Judge : Honourable Mr Justice R. Suresh Kumar, Honourable Dr. Justice a.D. Maria Clete

Appeal No. : WA/1135/2023

Appellant : S. Chandrakasan,

Respondent : The Inspector General

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR and THE
HONOURABLE DR.JUSTICE A.D.MARIA CLETE S.Chandrakasan ...
Appellant -Vs-

1. The Inspector General, CISF South Sector Head Quarters, Chennai
Port Trust, Chennai - 600 001.

2. The Deputy Inspector General, Rajaji Bhavan, Besant Nagar, Chennai.

3. The Commandant,

V.O.C. Port Trust, Tuticorin. ... Respondents PRAYER : Appeal under Clause XV of Letters Patent against the order dated 16.07.2021 made in W.P.No.30032 of 2011. For Appellant : Mr.K.Sudalai Kannu For Respondents : Mr.S.Diwakar Special Panel Counsel

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.) This intra Court appeal has been directed against the order dated 16.07.2021 made in W.P.No.30032 of 2011.

2. The appellant was the petitioner who was initially appointed as

Security Guard in the year 1972 in the respondent Department. Thereafter, since he absented himself without prior permission from the superior, the disciplinary proceedings has been initiated and subsequently, the charges were issued on 24.02.1992.

3. In respect of the charges, which was enquired and based on the proven

charges, a punishment of stoppage of increment with cumulative effect was imposed against him on 25.04.1992. Thereafter, since the said proceedings was found fault with, the petitioner was reinstated and a de novo enquiry seems to have been ordered, pursuant to which, de novo enquiry was conducted, based on which, the Enquiry Officer had given a report that the charges framed against the delinquent have been proved. Based on the proven charges, the Disciplinary Authority has imposed the punishment of removal of service against the appellant / petitioner on 27.07.1993 which was under challenge in W.P.No.22671 of 1993.

4. Ultimately, this Court by an order dated 15.03.2007 directed to

reinstate the appellant / petitioner only with 50% of back wages from 19.08.1992 till the date of his reinstatement treating the remaining 50% of back wages as punishment for the delinquencies committed by the petitioner.

5. Thereafter, he was reinstated on 23.11.2007. After reinstatement, in the year 2008, the training programme called Promotion Cadre Course was offered to him as it is mandatory for seeking any promotion to the post of Sub Inspector of Police and thereafter, Inspector of Police.

6. The said offer made by the employer to the appellant / petitioner had been refused by him in 2008. Again in the year 2010, such offer had been given to undergo such training which was also refused and he had sent a letter to the employer stating that such training programme already been commenced, in respect of him should be stopped, thereby he voluntarily gave up to go for such training programme, knowing well that it become a mandatory one to seek for further promotion.

7. Since he has refused to undergo training programme it shows that he is not ready and willing to take the challenge of becoming fit to hold the post of Sub Inspector of Police and the Inspector of Police, therefore such a promotion could not be offered to him.

8. Subsequently on 31.12.2011 on superannuation he retired from service.

Only on retiring from service, the appellant / petitioner had filed the writ petition in W.P.No.30032 of 2011 seeking for a mandamus to the third respondent, i.e., the Commandant to promote the petitioner as Inspector of Police as per his seniority with 50% backwages at the rate revised from time to time till the date of reinstatement with all other benefits.

9. The said writ petition having been considered was decided against the appellant / petitioner by dismissing the said writ petition by the writ Court by

order dated 16.07.2021, which is impugned herein.

10. Heard Mr.K.Sudalai Kannu, learned counsel appearing for the appellant and Mr.S.Diwakar, learned Special Panel Counsel appearing for the respondents.

11. We have gone through the order which is impugned herein and also have heard the arguments advanced by the learned counsel appearing for both sides.

12. According to the learned counsel appearing for the appellant,

subsequent to reinstatement dated 23.11.2007 since he has become physically weak, he was not ready and willing to go for the promotion cadre post training offered to him twice. However, before his reinstatement on 23.11.2007, the earlier period should have been calculated and an automatic promotion based on the seniority to the post of Sub Inspector of Police and consequently to the post of Inspector of Police ought to have been offered to him which they have not offered, merely not going for training subsequent to the reinstatement cannot be shown as a reason for denying such promotion prior to 23.11.2007, he contended.

13. Absolutely, there has been no ground to accept such an argument

because upto 23.11.2007, the appellant / petitioner was not in service as he has already faced the disciplinary proceedings which culminated in an order of punishment of removal of service.

14. The said removal of service had been modified by the Court of law

and pursuant to which, he had been reinstated into service only on 23.11.2007. Thereafter, only if at all he has to be promoted based on the seniority, he must be ready to take the steps to take the chance of becoming the promottee by undergoing the Promotion Cadre Course, i.e., training which is a mandatory one and should have been completed successfully by every such persons who is eligible to hold the promoted

post.

15. However, admittedly, when such offer had been given twice to the appellant / petitioner, the same had been refused by him by citing the health reasons as he has become weak physically to withstand such a training.

16. Since the appellant / petitioner is a member of the Disciplined Force

where if he wish to become Sub Inspector of Police or Inspector of Police, it is a great responsibility to lead the team under him for which he must be with the utmost physical fitness and in order to ensure the same only, the Department is

having such a mandatory training programme of Promotion Cadre Course and the same was offered to him. As he has refused to take the training, he has voluntarily lost the chance of getting promotion and once he has got retired on superannuation on 31.12.2011, the appellant / petitioner cannot turn around and seek for the benefit of promotion notionally, thereby he wants the promotion without undergoing the mandatory training. Such a plea raised by the appellant / petitioner having been considered in proper perspective by the writ Court, it has been rejected through the order impugned and to that effect, we do not find any reasons to interfere with the order passed by the writ Court.

17. Resultantly, this Writ Appeal fails and hence, it is dismissed. However, there shall be no order as to costs. (R.S.K., J.) (A.D.M.C., J.) 22.04.2025 NCC : Yes / No Index : Yes / No Speaking Order : Yes / No vji To

1. The Inspector General, CISF South Sector Head Quarters, Chennai Port Trust, Chennai - 600 001.

2. The Deputy Inspector General, Rajaji Bhavan, Besant Nagar, Chennai.

3. The Commandant, V.O.C. Port Trust, Tuticorin.

R.SURESH KUMAR, J.

and

A.D.MARIA CLETE, J.

vji 22.04.2025

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com